

REMARKS

Claims 9, 10, 12 to 19, and 21 to 24 are now pending in the present application.

In view of the following remarks, it is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Claims 9 and 14 are rejected under 35 U.S.C. § 112, second paragraph, as indefinite.

As to the phrase of “critically close”, it is plainly defined in the Specification of the present application -- including, for example, at page 5, line 7 to page 6, line 26, in the description of Figure 2 (the distance-relative speed diagram). As in claim 9, the takeover prompt informs the driver that the vehicle is coming critically close to a target object. Claim 9 (and Figure 2 and its corresponding description) describes circumstances in which the takeover prompt is activated. In these circumstances, the driver is “critically close to a target object.” The phrase “critically close” is therefore defined by the same parameters that define activation of the takeover prompt.

Accordingly, claims 9 and 14, as presented are definite and are therefore allowable. Withdrawal of the indefiniteness rejections is therefore respectfully requested.

Claims 9, 10, 12 to 19, and 21 to 24 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. Patent No. 6,009,368 (“Labuhn”) in view of U.S. Patent Application Publication No. 2002/0177935 (“Winner”).

The Winner reference corresponds to U.S. Patent Application Serial No. 10/105,703, which is assigned to Robert Bosch GmbH and which was filed on March 25, 2002, and which published on November 28, 2002 as U.S. Patent Application Publication No. 2002/0177935. The present application (assigned to Robert Bosch GmbH) claims priority to German Patent Application No. 10231687.2 filed on July 10, 2002 which is before the November 28, 2002, publication date of the Winner reference. The Winner reference is therefore prior art as to the present application only under 35 U.S.C. § 102(e).

The primary reference is removable under 35 U.S.C. § 103(c), since the “Winner” reference is only a reference under 35 U.S.C. § 102(e). That is, under 35 U.S.C. § 103(c)(1), the Winner reference may not preclude patentability under 35 U.S.C. § 103, since Applicants state that the subject matter of the “Winner” reference and the claimed invention

of the present application “were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person”, with Robert Bosch GmbH being the “same person”. A certified copy of the translation of German Patent Application No. 10231687.2 accompanies this communication.

It is therefore respectfully submitted that the reference must be removed under 35 U.S.C. § 103(c) in view of the foregoing statement, and it is respectfully requested that the obviousness rejections be withdrawn. (See 1241 O.G. 96 (December 26, 2000) concerning revised guidelines for removing a reference under 35 U.S.C. § 103(c), which provides for the attorney of the Applicants to make the “commonly owned” statement).

Since the Final Office Action admits that the Labuhn reference does not disclose or suggest all of the features of claims 9, 10, 12 to 19, and 21 to 24, and since the Winner reference is not effective prior art under 103(c), it is respectfully submitted that all of the presently pending claims are allowable. Withdrawal of the rejections is therefore respectfully requested.

In sum, it is respectfully submitted that claims 9, 10, 12 to 19, and 21 to 24 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all of the presently pending claims are allowable. It is therefore respectfully requested that the rejections and objections be withdrawn. Since all issues raised by the Examiner have been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully Submitted

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Dated: 11/11/2009

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